



INDUSTRY CIRCULAR

**DEPARTMENT OF
THE TREASURY**

**Bureau of Alcohol, Tobacco and Firearms
Washington, D.C. 20226**

Number: 82-2 Date: April 8, 1982

IMPORTED SAKE

Importers and others concerned:

Purpose: This circular is to inform importers of sake as to its tax classification under the Internal Revenue Code.

Sake which contains alcohol produced solely by fermentation is taxed as a malt beverage at the rate of \$9 per barrel of 31 gallons (26 U.S.C. 5051 and 5052). Sake which contains any alcohol produced by distillation is taxed as a distilled spirit at the rate of \$10.50 per proof gallon.

It is the responsibility of the importer to determine the correct tax classification of the alcoholic beverages imported by him.

It has come to the Bureau's attention that some brands of imported sake which contain added distilled spirits are entering the United States and are being improperly classified and taxed as malt beverages. If sake entering the United States is classified as a malt beverage and is then later found to contain distilled spirits, a tax liability is created which is equal to the difference of the distilled spirits taxes due and the malt beverage taxes paid. The importer is liable for the additional taxes in such a situation. Additional penalty and interest liabilities may also be incurred.

Any importer found to have willfully imported sake containing distilled spirits and, knowing such, nevertheless paid taxes at the malt beverage rate becomes subject to the provisions of 26 U.S.C. 7201 which states:

"Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other

penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution."

In addition to the collection of taxes due, any underpayment of tax due to fraud is subject to the provisions of 26 U.S.C. 6653 which provides for a penalty equal to 50% of the underpayment.

The Bureau will take appropriate action in all instances where tax liabilities are disclosed.

Inquiries: Questions regarding this circular should refer to its number and be addressed to the Assistant Director (Regulatory Enforcement), Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

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Director

Department of the Treasury
Bureau of Alcohol, Tobacco and Firearms
Washington, D.C. 20226

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